

of whether the ballots are returned by members to the labor organization office, to a mail box, or to an independent agency such as a firm of certified public accountants, candidates must be permitted to have an observer present at the preparation and mailing of the ballots, their receipt by the counting agency and at the opening and counting of the ballots.

(d) Paying election observers is the responsibility of the candidate they represent unless the union has a rule providing for the payment of observers. If the union does have such a rule, it must be uniformly applied to all candidates.

§ 452.108 Publication of results.

In any election which is required by the Act to be held by secret ballot, the votes cast by members of each local labor organization must be counted, and the results published, separately.⁵² For example, where officers of an intermediate body are elected directly by members, the votes of each local must be tabulated and published separately. The publishing requirement is to assure that the results of the voting in each local are made known to all interested members. Thus, the presentation of the election report at a regular local membership meeting, and the entry of the report in the minutes, would normally accomplish this purpose in a local election. Such minutes would have to be available for inspection by members at reasonable times, unless copies of the report are made available. In an election that encompasses more than one local, publication may be accomplished by posting on appropriate bulletin boards, or in a union newspaper, or by any procedure which allows any member to obtain the information without unusual effort. Of course, the counting and reporting should account for all ballots cast in the election, although only valid votes will be counted in determining the successful candidates.

⁵² Act, sec. 401(e). See also Senate Report 187, 86th Cong. 1st sess., p. 47; Daily Cong. Rec. p. 13682, Aug. 3, 1959, and p. A6573, July 29, 1959.

§ 452.109 Constitution of labor organization.

Elections must be conducted in accordance with the constitution and bylaws of the organization insofar as they are not inconsistent with the provisions of title IV.⁵³

§ 452.110 Adequate safeguards.

(a) In addition to the election safeguards discussed in this part, the Act contains a general mandate in section 401(c), that adequate safeguards to insure a fair election shall be provided. Such safeguards are not required to be included in the union's constitution and bylaws, but they must be observed. A labor organization's wide range of discretion regarding the conduct of elections is thus circumscribed by a general rule of fairness. For example, if one candidate is permitted to have his nickname appear on the ballot, his opponent should enjoy the same privilege.

(b) A union's failure to provide voters with adequate instructions for properly casting their ballots may violate the requirement of adequate safeguards to insure a fair election.

§ 452.111 Campaigning in polling places.

There must not be any campaigning within a polling place⁵⁴ and a union may forbid any campaigning within a specified distance of a polling place.

§ 452.112 Form of ballot; slate voting.

The form of the ballot is not prescribed by the Act. Thus, a union may, if it so desires, include a proposed bylaw change or other similar proposal on a ballot along with the candidates for office so long as this is permissible under the union's constitution and bylaws. A determination as to the position of a candidate's name on the ballot may be made by the union in any reasonable manner permitted by its constitution and bylaws, consistent with the requirement of fairness and

⁵³ Act, sec. 401(e). Under 29 CFR 402.10, a labor organization is required to make available to all members a copy of its constitution and bylaws.

⁵⁴ See *Hodgson v. UMW*, 344 F.Supp. 17 (D.D.C. 1972).